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DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Date: MAR 24 2000

Contact Person: [REDACTED]

ID Number: [REDACTED]

Telephone Number: [REDACTED]

Dear Applicant:

This letter responds to your application for recognition of exemption from federal income taxes as an organization described in Section 501(c)(3) of the Internal Revenue Code, as supplemented by additional information referred to below.

You were incorporated in [REDACTED] for religious, charitable, scientific, literary and educational purposes. Your articles limit your activities by expressly prohibiting any activities not described in Section 501(c)(3) of the Code. Your assets are dedicated to charitable purposes in the event of dissolution. You have met the organization test of Section 501(c)(3) of the Code.

The narrative description of your activities states:

"The applicant is .. created for the purpose of establishing, developing, owning, maintaining, and operating nursing homes, adult day care facilities, residential assisted living facilities, related health care facilities, and other residential facilities designed to meet the housing, health, personal needs, and financial security needs of the elderly, disabled, poor and other special populations. Through these Facilities the applicant may provide health care services such as pharmaceutical services and rehabilitation, including but not limited to physical, psychiatric, neurological and speech rehabilitation. The applicant currently does not own any Facilities but plans to seek appropriate Facilities for acquisition or construction and to commence operations upon a determination of its tax-exempt status. Any Facility that is acquired will be purchased for no more than fair market value of the Facility as determined by an independent appraisal. All Facilities will be owned and operated on a non-profit basis. Each Facility will have appropriate staff on duty to provide for the health care, physical and other needs and well being of the residents.

While it is anticipated that the primary source of capital for acquisition and construction of the Facilities will be the issuance of tax exempt revenue bonds, other sources of capital funding may be utilized. Each Facility will be self-supporting in that its operating funds will be derived principally from fees charged for residence in this Facility. Because of the necessity of retiring its indebtedness, the applicant will initially admit individuals who are able to pay the established rates, whether directly

or through government reimbursement programs such as Medicaid or Medicare. However once individuals are admitted to the Facilities, the applicant will make efforts to assist such individuals in obtaining whatever support may be available under local and Federal welfare programs should they need such assistance in paying its occupancy charges. This charitable policy will be effectuated either by maintaining such individuals out of its own reserves established for that purpose to the extent possible; by seeking whatever support may be available under local and Federal welfare programs; or by some combination of those means."

In your application, you provided the following statement pertaining to your projected sources of support:

"Initial capital to acquire, construct, develop, and operate the Facilities will come primarily from tax exempt bond issues, although other sources of funding may be utilized. The primary source of continuing financial support will be income from the operations of the Facilities. The applicant anticipates that the Facilities will be self-supporting and will derive their operating funds from fees charged to residents of the Facilities. Those fees are expected to include room and board charges and charges for ancillary services, including physical and occupational therapy, laboratory services, prescription drugs, other medical supplies, personal care services, vending machine items and rooms and meals for guests. Those fees will be reasonable and will be charged to defray the applicant's cost in pursuing its charitable purposes and functions."

In a letter dated [REDACTED] you were asked for a copy of your bond purchase agreement. In your response you provided a bond inducement resolution for a project involving another organization in a different state. In a letter dated [REDACTED] you were asked for a copy of your prospectus or preliminary prospectus along with your management contract. In your response you stated that you had not produced a prospectus or a preliminary prospectus and that you had not entered into a management contract. By letter dated [REDACTED] you were asked for the details pertaining to your proposed activities and, in view of the proposed tax exempt bond issuance, either a bond offering statement or the material normally found in a bond offering statement along with your budget for [REDACTED] and [REDACTED]. Your response dated [REDACTED] did not provide details of any specific activities you will engage in, but instead provided the offering memorandum and the budget for a different corporation in a different state.

Section 501(a) and 501(c)(3) of the Code provide, in relevant part, for the exemption from federal income tax of corporations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that to be exempt under section 501(c)(3) of the Code an organization must be organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(1) of the regulations provides, in part, that an organization may be exempt under Section 501(c)(3) of the Code if it is organized for charitable purposes. However, it is not organized or operated exclusively for a charitable purpose unless it serves a public rather than a private interest.

Section 1.501(c)(3)-1(d)(2) of the regulations defines the term "charitable" in its generally accepted legal sense and it is not limited by the separate enumeration of exempt purposes in 501(c)(3) of the Code.

Revenue Procedure 90-27, 1990-1 C.B. 514 sets forth procedures with regard to applications for recognition of exemption from federal income tax under sections 501 and 521 of the Internal

Revenue Code. Section 5.02 provides that exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded.

As noted above, in your initial application and various subsequent submissions you have proposed to establish, develop, own, maintain, and operate nursing homes, adult day care facilities, residential assisted living facilities, related health care facilities, and other residential facilities designed to meet the housing, health, personal needs, and financial security needs of the elderly, disabled, poor and other special populations. However, you have not shown which property in particular you intend to purchase. In addition, you have not provided a recent budget for your organization. Although activities which relieve the distress of the elderly or the physically handicapped may support a claim for recognition as a charitable organization, such activities must be described in detail. Submitting information pertaining to activities conducted by another entity does not meet the criteria set forth in Revenue Procedure 90-27, *supra*.

Based on the above, we have concluded you have failed to establish that you will be operated exclusively for charitable purposes. You are therefore not described in Section 501(c)(3) of the Code and are not exempt from federal income taxes by reason of Section 501(a) of the Code. You are required to file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service  
ATTN: [REDACTED] T:EO:RA:T:2 Room 6539  
1111 Constitution Avenue N.W.  
Washington, DC 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(signed) Garland A. Carter

Garland A. Carter  
Manager, Exempt Organizations  
Technical Group 2